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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/787,944	05/25/2001	John Slegers	440436	1080
23548	7590	07/18/2006	EXAMINER	
LEYDIG VOIT & MAYER, LTD 700 THIRTEENTH ST. NW SUITE 300 WASHINGTON, DC 20005-3960			FORTUNA, ANA M	
			ART UNIT	PAPER NUMBER
			1723	

DATE MAILED: 07/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/787,944

Applicant(s)

SLEGERS, JOHN

Examiner

Ana M. Fortuna

Art Unit

1723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2,3,5-9,11-21 and 38-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) 2,3,5-9,11-18, 19-21 and 38-45 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Claim Rejections - 35 USC § 112***

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. Claims 2-3, 5-9, 11-18, 20-21, 38-45 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are: the connecting conduits feeding the filter and removing residue and filtered material from the filter and recirculating back to the system, the feed by-pass (94, 98), directing the feed to the first filter fluid path or second filter fluid path, pumps, control valves connected to the system.
2. Claims 2-3, 5-9, 11-18, 20-21, 38-45 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 38, the term "the second filtration means comprising part of the first filtration means" is not understood. Claim 38 is incomplete as to the elements of the system defining the flow paths. Claim 2 is unclear as to whether tangential flow filters are intended. In claim 3, the term "common (filter) to both flow path is not understood as to what is intended, since individuals filters are show in the system (seed figures). Claim 5, depending on claim 3, do not clearly define the structure of the filter or combination of filters defining the flow paths. Claim 6 does not add further additional limitation to the structure of claim 5.

Claim 7 is indefinite as to whether the manifold (s) are inlet manifold(s) or outlet manifold(s).

In claim 38, is unclear as to whether the “manifold connected to each filter” is a feed manifold or permeate or retentate manifold, the systems includes more than one manifold (see figure). The claim is incomplete, it lacks, the fluid paths defined as a retentate recirculation path.

Claim 40 is incomplete as lacking the manifold as “feed manifold (connected to a retentate recirculation conduit (connected to a different sections of the feed manifold).

Claim 41 is incomplete and fails to define the second flow path in terms of structure, e.g second “feed” manifold section connected to a retentate recirculation line and to the inlet of a second pump” directing the fluid to a second flowpath (constitute by a second filter or set of filters). The valves location, e.g between the first a second pump, and in the bypass conduit (98), bypassing the first pump (92), is also lacking. In claim 42, the second flow path is defined as “not having a portion of the first continuous flow path”; the claim is unclear regarding to what portion (e.g. section or conduits) are not involved in the second flow path. The later claim fails to provide the system structure defining the “two feed inlets and by pass for the pump defining the inlet manifold, and the therefore the feed fluid paths.

Claim 44 is incomplete as it fails to provide valve location in the system with respect to the “feed” manifold.

***Allowable Subject Matter***

3. Claims 11, 14, 15 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office Action.

4. Response to Arguments.

5. Applicant's arguments filed 4/5/05 have been fully considered but they are not persuasive. Rejections based on 102 and 103 has been withdrawn, the 112 rejections, however, have been modified based on the claims as amended and/or canceled.

Applicant argues that the volume in the second "flow path" is lower than in the second "flow path", all the claims are directed to "a filtration system", therefore, the system(s) need to be claimed based on "structure", e.g. elements defining the system, including a clear definition of the structures defining each fluid path (or fluid circuit), and what made the volumes of each circuit to be different (e.g. number of filter included in the circuit of path). The structure of the "feed inlet manifold", including a feed arrangement for a first path, and a second feed arrangement for a second flow path (or recirculation circuit) is not clear in the claims. The feed inlet manifold needs to include all the in each path, e.g. the two feed conduits, two pumps, valve and bypass, and retentate recirculation conduit connected to the "second flow path, are structural limitations not present in the claims and required to define the paths (circuits).

***Conclusion***

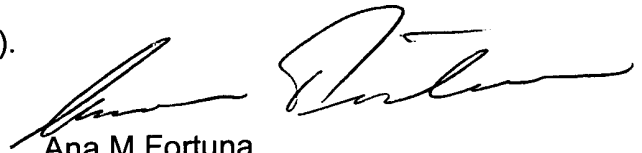
6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ana M Fortuna whose telephone number is (571) 272-1141. The examiner can normally be reached on 9:30-6:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda L. Walker can be reached on (571) 272-1151. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Ana M Fortuna  
Primary Examiner  
Art Unit 1723

AF  
June 21, 2006